

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.519 of 2003

DATE OF DECISION:16.04.2007

Ishwar Singh & Ors. Appellants

Versus

Risal Singh & Ors. Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Vikram Singh, Advocate
for the appellants.

Shri Prabodh Mittal, Advocate
for the respondents.

This is defendants' second appeal against the judgement and decree passed by both the courts below, whereby, the suit of the plaintiff for mandatory and permanent injunction restraining the defendants from encroaching upon the passage A B C D has been decreed.

I have heard counsel for the parties.

In this case, the dispute is between the three real brothers about the passage A B C D. Undisputedly a big plot owned by all the three brothers was orally partitioned in a family settlement, according to which three plots of equal size were carved out. According to the plaintiff, the plot allotted to him was in the corner and a passage was provided to him from the plots of two other brothers, which is marked as A B C D.

The defendants contested the said suit on the plea that on the northern side of the plots there is a Panchayat land and the plaintiff can use the said land as a passage. Undisputedly, except Panchayat land and the passage A B C D, there is no other passage to the plot owned by the plaintiff. Both the courts below after appreciating the evidence led

by the parties have recorded a finding of fact that the plaintiff is not entitled to use the adjoining Panchayat land as passage to his plot. The disputed portion A B C D is the only passage to the plot of the plaintiff. The defendants further contested the claim of the plaintiff on the ground that they have constructed some portion on portion A B C D. It has also come in evidence in the shape of the report of the Local Commissioner that those constructions were raised by the defendants during the pendency of the suit.

Counsel for the appellants could not point out any illegality or perversity in the findings of fact recorded by both the Courts below. I do not find any ground to interfere in the impugned judgements and decrees passed by the both the Courts below. No substantial question of law is also involved in this appeal.

Dismissed.

April 16, 2007
pooja

(SATISH KUMAR MITTAL)
JUDGE